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Senate Engrossed House Bill

State of Arizona  
House of Representatives  
Forty-sixth Legislature  
Second Regular Session  
2004

# HOUSE BILL 2268

AN ACT

AMENDING SECTIONS 49-783, 49-837 AND 49-881, ARIZONA REVISED STATUTES;  
RELATING TO SOLID WASTE MANAGEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 49-783, Arizona Revised Statutes, is amended to  
3 read:

4 49-783. Injunctive relief; civil penalties; costs

5 A. If the director has reason to believe that a person is in violation  
6 of ~~any provision of articles~~ ARTICLE 3 or 4 of this chapter, a rule adopted  
7 pursuant to article 4 of this chapter, ~~OR~~ any condition of an approved solid  
8 waste facility plan issued pursuant to article 4 of this chapter or that a  
9 person is creating an imminent and substantial endangerment to the public  
10 health or the environment, the director through the attorney general may  
11 request a temporary restraining order, a preliminary injunction, a permanent  
12 injunction or any other relief necessary to protect the public health or the  
13 environment, without regard to whether the person has requested a hearing.

14 B. A person who violates ~~any provision of articles~~ ARTICLE 3 or 4 of  
15 this chapter, a rule adopted pursuant to article 4 of this chapter, an order  
16 issued pursuant to this article or an approved solid waste facility plan  
17 issued pursuant to THIS chapter ~~4~~ is subject to a civil penalty of not more  
18 than one thousand dollars for each day not to exceed fifteen thousand dollars  
19 for each violation, ~~EXCEPT THAT FOR VIOLATIONS THAT PRESENT AN IMMINENT AND~~  
20 ~~SUBSTANTIAL DANGER TO THE PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT THERE~~  
21 ~~IS NO TOTAL DOLLAR LIMIT FOR THE PENALTY.~~ At the request of the director,  
22 the attorney general shall file an action in superior court to recover civil  
23 penalties as prescribed by this section.

24 Sec. 2. Section 49-837, Arizona Revised Statutes, is amended to read:

25 49-837. Recycling fund; use; advisory committee

26 A. A recycling fund is established to be administered by the director.  
27 The fund consists of monies appropriated by the legislature, gifts, grants,  
28 donations and monies derived from the landfill disposal fees in section  
29 49-836. Monies derived from landfill disposal fees are subject to  
30 legislative appropriation. Monies in the fund are exempt from lapsing under  
31 section 35-190. On notice from the director, the state treasurer shall  
32 invest and divest monies in the fund as provided by section 35-313, and  
33 monies earned from investment shall be credited to the fund.

34 B. Monies from the recycling fund shall be used for the following  
35 purposes:

36 1. At least forty per cent shall be allocated for grants to or  
37 contracts with political subdivisions, nonprofit organizations or private  
38 enterprise for research, demonstration projects, market development and  
39 source reduction studies and implementation of the recommendations or reports  
40 prepared pursuant to this article.

1           2. At least twenty per cent shall be allocated for public information,  
2 public education and technical assistance programs concerning litter control,  
3 recycling and source reduction.

4           3. No more than five per cent may be allocated for the collection and  
5 administration of monies in the fund.

6           4. No more than five per cent may be allocated for the administration  
7 of this article.

8           5. At least four per cent but not more than five per cent may be  
9 allocated for the administration of the department of commerce recycled  
10 market development program. At the end of each fiscal year, any funds not  
11 expended by the department of commerce for this purpose shall be returned to  
12 the fund.

13           6. NO MORE THAN ONE PER CENT MAY BE USED BY THE DIRECTOR TO PAY FOR  
14 COSTS INCURRED FOR SERVICES OF THE ATTORNEY GENERAL PURSUANT TO SECTION  
15 49-783.

16           C. In making expenditures pursuant to subsection B, paragraph 2 of  
17 this section, the director shall ensure that counties having a population of  
18 fewer than five hundred thousand persons according to the most recent United  
19 States decennial census receive benefits in proportion to their contributions  
20 to the fund.

21           D. The director shall appoint an advisory committee to advise the  
22 director on the use of monies in the recycling fund. The advisory committee  
23 shall consist of two representatives from private solid waste collection  
24 businesses, two representatives from private solid waste recycling  
25 businesses, four representatives from political subdivisions which have  
26 implemented recycling and source reduction programs, at least one of whom  
27 resides in a county having a population of fewer than five hundred thousand  
28 persons, and one representative of the general public. The members of the  
29 committee serve at the pleasure of the director and are not eligible to  
30 receive compensation, and the committee is an advisory committee for purposes  
31 of title 38, chapter 3, article 3.1.

32           Sec. 3. Section 49-881, Arizona Revised Statutes, is amended to read:

33           49-881. Solid waste fee fund; uses; exemption

34           A. A solid waste fee fund is established. The director shall  
35 administer the fund. The fund consists of legislative appropriations,  
36 donations, gifts, grants, waste tire administrative monies distributed  
37 pursuant to section 44-1305, subsection B, paragraph 1, solid waste landfill  
38 registration fees from section 49-747, solid waste fees collected pursuant to  
39 section 49-762.03, subsection F, special waste management plan fees collected  
40 pursuant to section 49-857, special waste management fees collected pursuant  
41 to section 49-863, private consultants expedited plan review fees collected  
42 pursuant to section 49-762.03, subsection G and self-certification filing  
43 fees collected pursuant to section 49-762.05, subsection H.

1           B. Monies in the fund are subject to legislative appropriation for  
2 solid waste control programs established in the funding sources pursuant to  
3 subsection A of this section and as determined by the director. **MONIES IN**  
4 **THE FUND MAY BE USED TO PAY FOR COSTS INCURRED FOR SERVICES OF THE ATTORNEY**  
5 **GENERAL PURSUANT TO SECTION 49-783.**

6           C. On notice from the director, the state treasurer shall invest and  
7 divest monies in the fund as provided in section 35-313, and monies earned  
8 from investment shall be credited to the fund. Monies deposited in the fund  
9 are exempt from the provisions of section 35-190 relating to lapsing of  
10 appropriations.